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8 Attorneys for Defendant Religious
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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 GERALD ARMSTRONG,
13 Plaintiff,

CASE NO. CV-N-97-00670 HDM (RAM)

14 vs.

15 **DECLARATION OF WARREN McSHANE**
16 **IN SUPPORT OF**
17 **DEFENDANT RTC'S MOTION TO**
18 **DISMISS COMPLAINT**

19 DAVID MISCAVIGE and CATHY
20 NORMAN, individuals; CHURCH OF
SCIENTOLOGY INTERNATIONAL, a
21 California corporation; the RELIGIOUS
22 TECHNOLOGY CENTER, a California
23 corporation; the SEA ORGANIZATION,
24 a California based unincorporated entity;
25 and the CHURCH OF SCIENTOLOGY
26 OF TEXAS, a Texas corporation,

27 Defendants.

28 I, WARREN McSHANE, declare as follows:

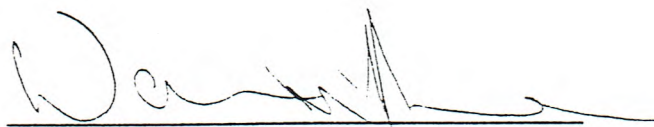
25 1. I am President of defendant Religious Technology Center ("RTC"). I have personal
26 knowledge of the facts set forth below and, if called upon to testify on such matters, would and could do
27 so competently.

28 2. RTC is a California corporation with its principal place of business in California.

3. RTC has no offices or subsidiaries in Nevada. It is not qualified to conduct business in Nevada and it does not conduct business in Nevada.

4. RTC does not own real or personal property in Nevada, own bank accounts in Nevada, have employees in Nevada, or have any direct or indirect contacts with Nevada.

I declare under penalty of perjury of the laws of the United States and of the State of California that the foregoing is true and correct. Executed this 19 day of April, 1998 at Los Angeles, California.


Warren McShane

Hale, Lane, Peek, Dennison, Howard, Anderson and Pearl
100 West Liberty Street, 10th Floor
Reno, Nevada 89501

PROOF OF SERVICE BY MAIL

I, NIKKI G. GROVES, declare:

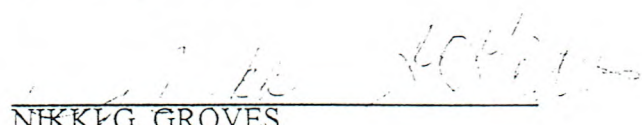
I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Hale, Lane, Peek, Dennison, Howard, Anderson and Pearl. My business address is 100 W. Liberty Street, Tenth Floor, Reno, Nevada 89501. I am over the age of 18 years and not a party to this action.

I am readily familiar with Hale, Lane, Peek, Dennison, Howard, Anderson and Pearl's practice for collection and processing of its outgoing mail with the United States Postal Service. Such practice in the ordinary course of business provides for the deposit of all outgoing mail with the United States Postal Service on the same day it is collected and processed for mailing.

On April 20, 1998, I served the foregoing **RELIGIOUS TECHNOLOGY CENTER'S MOTION TO DISMISS COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION; LACK OF PERSONAL JURISDICTION; IMPROPER VENUE; AND BECAUSE PLAINTIFF IS A FUGITIVE FROM JUSTICE** by placing a true copy thereof in Hale, Lane, Peek, Dennison, Howard, Anderson and Pearl's outgoing mail in a sealed envelope, addressed as follows:

George W. Abbott, Esquire
George W. Abbott, Chtd.
2245 B Meridian Boulevard
P.O. Box 98
Minden, Nevada 89423

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on April 20, 1998.

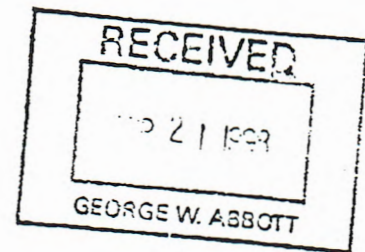


NIKKI G. GROVES

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10 Attorneys for Defendant Church of
 Scientology International
 11



Post-it® Fax Note 7671		Date 4/22/98	# of pages 1
To <u>Gerry Armstrong</u>		From <u>George Abbott</u>	
Co./Dept.		Co.	
Phone #		Phone #	
Fax # <u>604/795-7032</u>		Fax # <u>702/782-8362</u>	

12 UNITED STATES DISTRICT COURT

13 DISTRICT OF NEVADA

14 GERALD ARMSTRONG,

CASE NO. CV-N-97-00670 ECR (RAM)

15 Plaintiff,

16 vs.

17 DAVID MISCAVIGE and CATHY
 NORMAN, individuals; CHURCH OF
 18 SCIENTOLOGY INTERNATIONAL, a
 California corporation; the RELIGIOUS
 19 TECHNOLOGY CENTER, a California
 corporation; the SEA ORGANIZATION,
 20 a California based unincorporated entity;
 and the CHURCH OF SCIENTOLOGY
 21 OF TEXAS, a Texas corporation,

22 Defendants.
 23
 24

**MOTION TO DISMISS COMPLAINT FOR
 LACK OF SUBJECT MATTER
 JURISDICTION; LACK OF PERSONAL
 JURISDICTION; IMPROPER VENUE;
 AND BECAUSE PLAINTIFF IS A
FUGITIVE FROM JUSTICE**

25 COMES NOW Defendant Church of Scientology International and moves this Court for its Order
 26 dismissing the Complaint in the above-captioned action pursuant to Federal Rule of Civil Procedure 12
 27 (b)(1) and (2). This action is based upon the fact that:

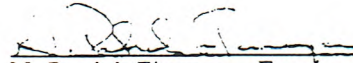
28 Plaintiff failed to allege adequately the basis for diversity jurisdiction because he alleged merely

1 that he was "a resident of Nevada at the time of filing this complaint," (Compl. ¶ 5), and an allegation of
2 residency alone is insufficient to establish the citizenship required to invoke diversity jurisdiction pursuant
3 to 28 U.S.C. § 1332;

4 Plaintiff cannot cure the defect by repleading because at the time of filing the complaint, he had not
5 established a domicile in Nevada, but rather was living in Canada as a fugitive from a jail sentence and fine
6 for contempt of court, and a bench warrant for in his arrest, both issued by the Superior Court of California
7 for Marin County. At the time that he fled California for Canada, plaintiff was a permanent resident and
8 domiciliary of California. Plaintiff failed to allege any facts to demonstrate that the Court has personal
9 jurisdiction over Defendant CSI; there is no basis for the Court to assert personal jurisdiction over
10 Defendant CSI because there are no contacts between Defendant and the State of Nevada; venue in the
11 court is improper under 28 U.S.C. § 1391(a); plaintiff should be precluded from litigating this action
12 because he is fugitive from justice.

13 This motion is supported by the Memorandum of Points and Authorities attached hereto and the
14 exhibits and pleading appended thereto as well as the pleadings, records and files in this action; and upon
15 such further evidence and argument as may be presented at the hearing on this motion.

16 DATED this 20th day of April, 1998.

17 
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